

STATE OF MICHIGAN  
COURT OF APPEALS

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CECIL CLAYTON WARREN,

Plaintiff-Appellant,

v

JOHN W. WOLF, and JOSEPH, WOLF, ENDEAN  
& STAHL, P.C.,

Defendants-Appellees.

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UNPUBLISHED

January 12, 1999

No. 203977

Saginaw Circuit Court

LC No. 94-004841 NM

Before: Hood, P.J., and Jansen and Talbot, JJ.

PER CURIAM.

Plaintiff appeals as of right from a May 27, 1997 order granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(10) in this legal malpractice action. We affirm.

Plaintiff's suit alleges that defendant John Wolf committed several negligent acts revolving around the creation of a stockholders' agreement, the transfer of stock owned by plaintiff's father into plaintiff's mother's revocable trust, and the subsequent unraveling of that stock transfer after the death of plaintiff's father. Defendants moved for summary disposition, and the trial court granted the motion, primarily holding that there was no attorney-client relationship between plaintiff and defendants.

To establish an action for legal malpractice, a plaintiff must allege and prove the following elements: (1) the existence of an attorney-client relationship; (2) negligence in the legal representation of the plaintiff; (3) that the negligence was the proximate cause of the injury; and (4) the fact and extent of the injury alleged. *Simko v Blake*, 448 Mich 648, 655; 532 NW2d 842 (1995). In the present case, the trial court ruled that there was no evidence of an attorney-client relationship. "The rendering of legal advice and legal services by the attorney and the client's reliance on that advice or those services is the benchmark of an attorney-client relationship." *Macomb Co Taxpayers Ass'n v L'Anse Creuse Public Schools*, 455 Mich 1, 11; 564 NW2d 457 (1997). A formal contract is not required to create the attorney-client relationship and such a relationship is sufficiently established when it is shown that the advice and assistance of the attorney are sought and received in matters pertinent to the attorney's profession. *Id.*

In the present case, the extent of the legal services performed by defendant John Wolf for plaintiff was that Wolf drafted a will and trust for plaintiff in the mid-1980's, Wolf handled some parking tickets for plaintiff, and defendants handled plaintiff's father-in-law's estate when he died. Further, Wolf drafted the stockholders' agreement for plaintiff's father's company, Diesel Truck Sales, Inc. Although Wolf was retained as the corporate attorney for Diesel Truck Sales, and plaintiff owned shares in the company, the attorney's client in such a situation is the corporation and not the stockholders because a corporation exists as an entity apart from its stockholders. *Fassihi v Sommers, Schwartz, Silver, Schwartz & Tyler, PC*, 107 Mich App 509, 514; 309 NW2d 645 (1981).

Accordingly, we conclude that Wolf was not acting as plaintiff's attorney when he drafted the stockholders' agreement or when he effectuated the stock transfer to the mother's trust. These actions were taken when Wolf was acting as the corporate attorney for Diesel Truck Sales and as the father's estate attorney. There is no evidence that Wolf ever acted as plaintiff's attorney regarding these transactions. The trial court, therefore, did not err in granting summary disposition in favor of defendants because plaintiff has failed to establish the first element of a legal malpractice claim. That is, no attorney-client relationship existed between plaintiff and defendants with respect to the drafting of the stockholders' agreement and the transfer of the stock owned by the father to the mother's trust. See, e.g., *Scott v Green*, 140 Mich App 384, 399-401; 364 NW2d 709 (1985).

Affirmed.

/s/ Harold Hood  
/s/ Kathleen Jansen  
/s/ Michael J. Talbot